

BOISE, FRIDAY, FEBRUARY 17, 2012 AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**IN THE MATTER OF THE)
TERMINATION OF PARENTAL RIGHTS)
OF JANE (2010-27) DOE.)**

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**IDAHO DEPARTMENT OF HEALTH &)
WELFARE,)**

Petitioner-Respondent)

v.)

JANE (2010-27) DOE,)

Respondent-Appellant.)

Docket No. 39360

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Carolyn Marie Minder, Magistrate Judge.

Gabriel J. McCarthy, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General, Boise, for respondent.

This case comes before this Court on a petition for review from a decision of the Court of Appeals which affirmed a magistrate's decree that terminated Jane Doe's parental rights. In August of 2010, the Idaho Department of Health and Welfare (Department) filed a petition for termination alleging that Jane Doe's child, E.G., was without the proper care and control necessary for his well-being. The Department further alleged that Doe was unable to discharge her parental responsibilities. Doe denied all allegations. After a termination trial, the magistrate court issued a memorandum decision and order that terminated Doe's parental rights. On appeal, the Court of Appeals affirmed the decision of the magistrate court. Doe then timely filed a petition of review to this Court, which was accepted.

BOISE, FRIDAY, FEBRUARY 17, 2012 AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

MARTHA A. ARREGUI,

Plaintiff-Appellant,

v.

**ROSALINDA GALLEGOS-MAIN, an
individual; FULL LIFE CHIROPRACTIC,
P.A., an Idaho professional association,**

Defendants-Respondents,

and

**JOHN and JANE DOES I through X, whose
true identities are unknown,**

Defendants.

Docket No. 38496

Appeal from the District Court of the Third Judicial District, State of Idaho,
Canyon County. Hon. Renae Hoff, District Judge.

Johnson & Monteleone, L.L.P., Boise for appellant.

Greener, Burke & Shoemaker, P.A., Boise, for respondents.

This appeal surrounds a medical malpractice claim brought against a chiropractor for negligently causing a patient to suffer a stroke after treatment. On or about June 4, 2007, appellant, Martha Arregui, sought treatment for her neck and back pain from the Respondent, a local chiropractor, Dr. Gallegos-Main. Arregui originally alleged that Dr. Gallegos-Main owed her a duty to medically treat her in a competent manner under Idaho's Medical Malpractice Act, and failed to do so when Arregui suffered a stroke after a neck manipulation. Arregui filed suit against the chiropractor on April 1, 2009. Dr. Gallegos-Main deposed Arregui's expert witness, Dr. Sarah Tamai, and discovered that she had no knowledge of the local standard of care in Nampa-Caldwell. Consequently, Dr. Gallegos-Main filed a Motion for Summary Judgment arguing that Arregui failed to meet the requirements of establishing a claim for medical malpractice which requires expert testimony regarding the local standard of care. Three days after the deadline, Arregui filed her Memorandum in Opposition to Defendant's Motion for

Summary Judgment and included an affidavit from her expert, Dr. Tamai, with a sworn statement that she consulted a local chiropractor and was now familiar with the local standard of care. Dr. Gallegos-Main filed a Motion to Strike the Affidavit of Sarah Tamai as untimely and as a sham affidavit.

After hearing oral arguments on both pre-trial motions, the district court granted the motion to strike Dr. Tamai's affidavit and Dr. Gallegos-Main's motion for summary judgment. Arregui filed a Motion for Reconsideration, claiming that the court erred in striking Dr. Tamai's affidavit and presented a new argument in the alternative that the court improperly granted summary judgment because the Medical Malpractice Act does not apply to chiropractors. The district court entered a final order denying Arregui's Motion for Reconsideration. Arregui now appeals to this Court.

BOISE, FRIDAY, FEB RUARY 17, 2012 AT 11:10 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

PAUL MORRISON,)	
)	
Plaintiff-Appellant,)	
)	
v.)	
)	Docket No. 37850
NORTHWEST NAZARENE UNIVERSITY,)	
and DOES and ROES 1 thru 5,)	
)	
Defendants-Respondents.)	
_____)	

Appeal from the District Court of the Third Judicial District, State of Idaho,
Canyon County. Honorable Juneal C. Kerrick, District Judge.

Hepworth, Janis & Brody, Boise, for appellant.

Racine Olson Nye Budge & Bailey, Chtd., Pocatello, for respondent.

This appeal arises from a negligence action against Northwest Nazarene University (NNU) for injuries sustained by Paul Morrison when he fell from a climbing wall while participating in NNU's Challenge Course Adventure Program. Morrison was a physical therapist employed by St. Luke's Idaho Elks Rehabilitation Center. On June 8, 2006, he and his co-workers participated in a team building exercise at the challenge course. Morrison alleges that during the exercise, NNU staff put one of his co-workers in charge of belaying his climb without proper training and supervision, and she was unable to slow his descent.

On June 2, 2006, Morrison signed NNU's Release/Hold Harmless/Indemnity/Assumption of Risk Agreement (the Agreement) at the request of his employer, in preparation for the team building exercise. The Agreement was required by NNU for participation in the challenge course and purportedly released NNU for liability for any personal injuries.

Following his injury, Morrison sued NNU, claiming that it was negligent in tasking his co-worker with belaying his climb without proper training and supervision. The district court granted NNU's motion for summary judgment, finding that the Agreement Morrison signed precluded his negligence claim. Morrison now appeals to the Idaho Supreme Court, arguing that the Agreement does not preclude his negligence claim because he did not freely enter into it, it is overbroad, and it does not specifically release negligence claims.